

The Orissa



Gazette

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LABOUR & EMPLOYMENT DEPARTMENT
NOTIFICATION

The 6th June 2007

No. 7410-II/1 (BH)-10/1999-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 7th February 2007, in case No. 39 of 2000 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial disputes between the Management of Dhenkanal Regional Improvement Trust, Dhenkanal and its workman Shri Surendra Kumar Sahoo was referred for adjudication is hereby published as in the Schedule below:

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 39 OF 2000

Dated the 7th February 2007

Present :

Shri S. K. Mohapatra, O. S. J. S. (Jr. Br.)
Presiding Officer,
Labour Court, Bhubaneswar.

Between :

The Management of Dhenkanal
Regional Improvement Trust,
Dhenkanal.

... First Party—Management

And

Its Workman
Shri Surendra Kumar Sahoo

... Second Party—Workman

Appearances :

None
Shri S. K. Sahoo

.. For the First-Party Management
.. Second Party Workman himself

AWARD

The Government of Orissa, Labour and Employment Department referred the present case between the Management of Dhenkanal Regional Improvement Trust, Dhenkanal and its workman Shri Surendra Kumar Sahoo under Notification No. 5323-L. E., dated the 18th May 1998 vide memo. No. 3335 (S)-L. E., dated the 7th March 2000 for adjudication by this Court.

2. The terms of reference by the State Government is as follows:

"Whether the termination of services of Shri Surendra Kumar Sahoo, Watchman/peon D. L. R. with effect from the 30th August 1997 by the management of Dhenkanal Regional Improvement Trust, Dhenkanal is legal and/or justified? If not, to what relief Shri Sahoo is entitled?"

3. Shorn of all unnecessary details, the case of the workman in brief is as follows:—

The workman was appointed as N.M.R. in the year 1986 under the Special Planning Authority, Dhenkanal which was subsequently renamed as Dhenkanal Regional Improvement Trust (hereinafter referred to as the management). The workman was working as an attendant from 1986 to 1988 and thereafter as a watchman from 1989 to September, 1995. In October, 1995 the workman was appointed as a peon on *ad hoc* basis up to the 24th April 1996 and thereafter he was again appointed as Watchman till the 30th August 1997 when his services was terminated. Initially the workman was getting Rs. 300 per month as wages which was enhanced to Rs. 2,000 per month in due course but was subsequently reduced to Rs. 1,000 per month from the May, 1997. When the workman protested about the reduction in his salary he was refused employment with effect from the 30th August 1997. When the workman raised industrial disputes before the authorities of the Labour Department a conciliation proceeding failed and on its failure, the present reference was made.

4. The management has been set *ex parte* vide order dated the 10th August 2001.

5. The workman has examined himself as W.W. 1 and has stated about his employment under the management and conditions of the employment. According to W.W. 1 the management without any reason illegally terminated his service with effect from the 30th August 1997 without giving any notice or notice pay and retrenchment compensation. The workman has proved the experience certificate as Ext. 1 and Exts. 2 to 8 are the xerox copies of the office orders showing his *ad hoc* appointment. Ext. 11 is the xerox copy of the order of the Hon'ble High Court of Orissa to the then Presiding Officer, Labour Court, Bhubaneswar to dispose of the present case in its own merit as early as possible.

6. From the Exts. 2 to 8 it is apparent that the workman was under the employment of the management for more than 240 days during the last 12 calendar months proceeding the date of termination of his service and therefore, the workman was in continuous service within the meaning of Section 25-B of the Industrial Disputes Act, 1947 (hereinafter referred to as the I.D. Act). Therefore, the provisions under Section 25-F of I.D. Act attracts. The workman had not been given any notice pay or any notice at the time of termination and he had not been given any retrenchment benefits as provided under Section 25-F of the I.D. Act. Hence, the termination of the workman from his service by the management by way of refusal of employment with effect from the 30th August 1997 is illegal.

7. Hence, ordered;

The termination of services of the workman, namely Shri Surendra Kumar Sahoo with effect from the 30th August 1997 by the management of Dhenkanal Regional Improvement Trust, Dhenkanal is illegal and therefore, the workman is entitled to the benefit of reinstatement in service. In the facts and circumstances of this case, there is no order as to payment of any back wages as because there is no proof that the workman had not been employed gainfully since the date of termination of his service.

The reference is answered accordingly.

Dictated and corrected by me.

S. K. MOHAPATRA
7-2-2007

Presiding Officer
Labour Court
Bhubaneswar

S. K. MOHAPATRA
7-2-2007

Presiding Officer
Labour Court
Bhubaneswar

By order of the Governor

N. C. RAY

Under-Secretary to Government

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